

Sixth Appellate District

San Jose, California

MONDAY, OCTOBER 17, 2005

H027499 ZAHNISER v. HLO COMPANY, INC.

The judgment is affirmed. (not published)
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)

Filed October 17, 2005

H027362 PEOPLE v. RODRIGUEZ

The judgment is reversed and the cause is remanded to the trial court for further proceedings, including retrial of the Penal Code section 12022.7, subdivision (a) enhancement if the district attorney elects to retry it. (not published)
(Premo, Acting P.J.; We concur: Elia, J., Bamattre-Manoukian, J.)

Filed October 17, 2005

H028104 DeBERT v. COUNTY OF SANTA CRUZ

By the Court*:

Appellant's petition for rehearing is denied.
Filed: October 17, 2005

*Before Rushing, P.J., Premo, J. and Elia, J.

TUESDAY, OCTOBER 18, 2005

H028555 PEOPLE v. D'SEAN D.

The judgment is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Bamattre-Manoukian, J.)
Filed October 18, 2005

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; Premo, J.; Elia, J.; and J. Michel, Deputy Clerk.

H027519 PEOPLE v. CROSS

Cause called and argued by Stephen B. Bedrick appearing for Appellant and by Christopher J. Wei, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H026515 PEOPLE v. VIRAY

Cause called and argued by Laurette M. Oravitz-Komlos appearing for Appellant and by Mark Howell, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Sixth Appellate District

San Jose, California

Tuesday, October 18, 2005 (continued)

H027715 In re WENDEMAGENGHEU

Cause called and argued by David D. Carico appearing for Appellant and by Rene A. Chacon, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H027668 In re Marriage of GARCIA

Cause called and argued by Hugh T. Thomson and Stephen James Wagner appearing for Appellant Olivia Garcia and by Bernard N. Wolf appearing for Appellant Henry Garcia. Cause ordered submitted.

Rushing, P.J. leaves the bench and Duffy, J. takes the bench.

H028173 PEOPLE v. MAAS

Cause called and argued by Frederick Martin Schnider appearing for Appellant and by John Vance, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Court stands in recess.

H025876 HARROD v. HARROD, JR.

The trial court's order denying appellant Colette Harrod's claim for reimbursement of coin laundry income is vacated and remanded for the limited purpose of redetermining Colette's entitlement to reimbursement in light of the court's obligation to effect an equal division of the community estate pursuant to Family Code section 2550. In all other respects, the judgment is affirmed. Each party is to bear his or her own costs on appeal. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)

Filed October 18, 2005

H027283 PEOPLE v. PLISKA

By the Court*:

Appellant's petition for rehearing is denied.

Filed: October 18, 2005

*Before Rushing, P.J., Premo, J. and Elia, J.

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; Premo, J.; Elia, J.; and S. Nasson, Deputy Clerk.

Sixth Appellate District

San Jose, California

Tuesday, October 18, 2005 (continued)

H027891 PEOPLE v. GAUWAIN

Cause called and argued by Leonard Klaif appearing for Appellant and by Aileen Bunney, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H027579 ANDREASEN v. HYUNDAI MOTOR AMERICA

Cause called and argued by Scott Cohen appearing for Appellant and by David Ruben appearing for Respondent. Cause ordered submitted.

H028111 CITY OF WATSONVILLE v. CALFIORNIA STATE DEPARTMENT OF HEALTH SERVICES; CALIFORNIA DENTAL ASSOCIATION

Cause called and argued by Alan Smith appearing for Appellant and by Christopher Krueger, Deputy Attorney General, appearing for Respondent and by Howard Soloway appearing for Respondent. Cause ordered submitted.

H027335 AUZIOUS, INC., et al. v. MANATT, PHELPS, PHILLIS, LLP

Cause called and argued by Ardell Johnson appearing for Appellants and by Allison Cooper appearing for Respondent. Cause ordered submitted.

H026757 AJAXO, INC. v. E*TRADE GROUP, INC., et al.

H027383 AJAXO, INC. v. E*TRADE GROUP, INC.; EVERYPATH, INC.

Cause called and argued by Susan Handelman appearing for Appellant and by Michael Lawson appearing for Appellant and by William Abrams appearing for Respondent. Cause ordered submitted.

Court adjourns.

H028141 PEOPLE v. VALDEZ

By the Court*:

Appellant's petition for rehearing is denied.

Filed: October 18, 2005

*Before Premo, Acting P.J., Elia, J. and Duffy, J.

Sixth Appellate District

San Jose, California

WEDNESDAY, OCTOBER 19, 2005

H027877 PEOPLE v. DOMINGUEZ, et al.

The judgment in case No. CC323663 as to Chavez is affirmed. The judgment in case No. CC323663 as to Dominguez is modified to stay execution of the sentence for count 3 pending service of the sentence for counts 1, 2, and 4, such stay to become permanent when service of the sentences for counts 1, 2, and 4 is completed; as so modified, the judgment as to Dominguez is affirmed. The judgment in case No. CC318833 (Chavez) is affirmed.

(Premo, J.; We concur: Rushing, P.J., Bamattre-Manoukian, J.)
Filed October 19, 2005

H028206 MOORE v. GOERTZ

The order is affirmed. (not published)
(Mihara, J.; We concur: Elia, Acting P.J., McAdams, J.)
Filed October 19, 2005

H028497 In Re JULIA V., et al; DFCS v. KATHLEEN P.

The order appealed from is affirmed. (not published)
(Duffy, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)
Filed October 19, 2005

H028643 In re ARIS R., et al.; DFCS v. ARMANDO R.

The juvenile court's orders of April 4, 2005, are affirmed. (not published)
(Premo, Acting P.J.; We concur: Elia, J., Bamattre-Manoukian, J.)
Filed October 19, 2005

H028156 PEOPLE v. PICKENS

The judgment is affirmed. (not published)
(Duffy, J.; We concur: Mihara, Acting P.J., McAdams, J.)
Filed October 19, 2005

The following cases are submitted this date:

H027781 PEOPLE v. KENT

H028700 LAUCELLA, et al. v. IRELAND SAN FILIPPO, LLP, et al.

H027693 VARGAS, et al. v. CITY OF SALINAS, et al.

H028247 PEOPLE v. MOORE

Sixth Appellate District

San Jose, California

THURSDAY, OCTOBER 20, 2005

H027516 PEOPLE v. TORRES

The judgment is affirmed. (not published)
(Premo, Acting P.J.; We concur: Elia, J., Bamattre-Manoukian, J.)
Filed October 20, 2005

H028453 PEOPLE v. JOSE R.

The judgment is affirmed. (not published)
(Duffy, J.; We concur: Rushing, P.J., Premo, J.)
Filed October 20, 2005

H028815 PEOPLE v. PICKENS

The judgment is affirmed. (not published)
(McAdams, J.; We concur: Rushing, P.J., Mihara, J.)
Filed October 20, 2005

H028524 SCOTT v. GUTIERREZ, et al.

By the Court:

Upon the court's own motion, the submission order in the above-entitled matter dated September 20, 2005, is hereby vacated. The court by separate letter issued October 20, 2005, has requested supplemental briefing from the parties. The cause will be resubmitted upon completion of supplemental briefing.
Dated: October 20, 2005 Rushing, P.J.

H028450 In re CASSANDRA T.; SANTA CRUZ COUNTY HRA v. ANDREA S.

The order appealed from is affirmed. (not published)
(Elia, Acting P.J.; We concur: Mihara, J., McAdams, J.)
Filed October 20, 2005

H028661 PEOPLE v. FERNANDEZ

The judgment is affirmed. (not published)
(McAdams, J.; We concur: Mihara, Acting P.J., Duffy, J.)
Filed October 20, 2005

Sixth Appellate District

San Jose, California

Thursday, October 20, 2005 (continued)

H028386 In re CODY D.; SANTA CRUZ COUNTY HRA v. CRYSTAL K.

The order terminating Crystal's and Nicholas's parental rights is conditionally reversed, and the matter is remanded to the juvenile court with directions that HRA provide all known ancestral information to all three Cherokee tribes. HRA is directed to file proof of receipt of such notice by the tribes, along with a copy of the notice and any responses. If, after receiving notice as required by the ICWA, no tribe responds indicating that Cody is an Indian child, or the responses received indicate Cody is not an Indian child within the meaning of the ICWA, the order terminating parental rights shall be immediately reinstated. If any tribe determines that Cody is an Indian child within the meaning of the ICWA, the juvenile court shall conduct further proceedings applying the provisions of the ICWA, Welfare and Institutions Code section 360.6, and rule 1439 of the California Rules of Court. (not published)
(Duffy, J.; We concur: Elia, Acting P.J., Bamattre-Manoukian, J.)
Filed October 20, 2005

The following case is submitted this date:

H028255 D.F.C.S. v. DEZIRE Q.

FRIDAY, OCTOBER 21, 2005

H026395 In re DAVE BAUTISTA On Habeas Corpus.

By the Court:

Respondent's petition for rehearing is denied.

Filed: October 21, 2005

(Rushing, P.J. and Premo, J. participated in this decision.
Bamattre-Manoukian, J. would grant the petition.)

Sixth Appellate District

San Jose, California

Friday, October 21, 2005 (continued)

H028333 STEWART v. PRESTON PIPELINE

By the Court:

On the court's own motion, submission in this matter is vacated for purposes of augmenting the record on appeal. The record on appeal is ordered augmented to include a supplemental clerk's transcript containing the following pleadings: the Notice of Settlement filed on or about July 6, 2004; the Declaration of Thomas H. LeMon in Support of Motion to Confirm Settlement, or in the Alternative, Motion for Summary Judgment filed on or about September 29, 2004; the Request for Judicial Notice in Support of Motion to Confirm Settlement, or in the Alternative, Motion for Summary Judgment filed on or about September 29, 2004; and the Judgment filed on or about December 3, 2004.

The trial court is directed to forward the original or a certified copy of the foregoing material to this court within 15 days.

Upon filing of the augmented record in this court, the cause will be resubmitted.

Dated: October 21, 2005

Rushing, P.J.

H027976 FIRESIDE BANK v. SUPERIOR COURT; GONZALEZ

The petition for extraordinary relief is denied. Costs to real party in interest, Sandra Gonzalez. (published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed October 21, 2005

H028183 THE PEOPLE v. DAVID R., et al.

The orders appealed from are affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Bamattre-Manoukian, J.)

Filed October 21, 2005

H027004 PEOPLE v. MCDONOUGH, SR.

The order granting additional credit is reversed. The matter is remanded, and the Clerk of the Santa Clara County Superior Court is directed to modify the abstract of judgment to reflect a total of 443 days credit-386 days of actual presentence custody credit and 57 days of presentence conduct credit-and forward it to the Department of Corrections. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed October 21, 2005